



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

be considered a necessarily implied effect of section 3 (4) which makes such assignments acts of bankruptcy, that it must be considered void is beyond question, for "It could not have been intended that the very conveyance which warranted putting the grantor into bankruptcy should withdraw all his property from distribution there." But the assignment was not *illegal*. Being permitted by the State law it was not prohibited by the Bankruptcy act unless and until proceedings in bankruptcy were instituted. *In re Sievers*, 91 Fed. 366. Being lawful when rendered the services raise a valid debt. *Re Lanis*, Fed. Cas. No. 7989. However, as these services were rendered to the assignee, the claim therefor must be worked out through him. *Central R. and Bkg. Co. v. Pettus*, 113 U. S. 116. The assignee, acting lawfully in what he does before proceedings are begun, in so far as his services are beneficial to the estate is entitled to an allowance for them, which should not be denied through the mere fiction of a void relationship. *Platt v. Archer*, Fed. Cas. No. 11,214. *McDonald v. Moore*, Fed. Cas. No. 8,763. Such allowance is to be regarded as a deduction from the property which the assignee is required to surrender, and in that way it gains a preference. *Platt v. Archer, supra*; *Re Scholtz*, 106 Fed. 834. *White v. Hill*, 148 Mass. 396.

BANKRUPTCY—SUBROGATION OF SURETY—SECTION 57i.—*LIVINGSTON v. HEINEMAN*, 10 AM. B. R. 39 (C. C. A.).—*Held*, that a surety upon notes of the bankrupt, upon paying the same, is, under section 57i of the Bankruptcy Act, subrogated to the rights of the creditor, *cum onere*, and can only participate in the distribution of the estate when he restores preferential payments received by the creditor.

Section 57i of the Bankruptcy Act provides that the surety of the bankrupt, discharging the obligation shall be subrogated to the rights of the creditor. Section 57q provides that creditors who have received preferences shall not have their claims allowed unless they surrender such preferences. This decision of the Circuit Court of Appeals in the Sixth Circuit reversing that of the district court, and a similar decision, *In re Amasa Lyon*, 10 AM. B. R. 25, just handed down in the second circuit confirm the weight of authority as to the construction of these sections. Notwithstanding ingenious efforts of district judges in this and other cases, see *In re Siegel-Hillman Co.*, 11 Fed. 980, to relieve the surety of the burden of returning the preference, by the plain weight of authority, the surety, under these sections, stands exactly in shoes of the creditor taking his claims, "subject to all the limitations and disqualifications attached to them in the hands of his predecessor." *Houston v. Bank*, 25 Ala. 250; *Swarts v. Seigel*, 117 Fed. 13. The conclusion reached in the Seventh Circuit, *Doyle v. Milwaukee Bank*, 116 Fed. 295, that the surety need not return the preference because he was not "in the same class" (Section 60a, Preferred Creditors) with ordinary creditors is deprived of all weight by the recent amendments to the Bankruptcy Act by which the preferences which must be returned are carefully defined as those void or voidable under sections 60b and 67e, i. e., those into which some element of fraud enters; in substance a return to the rule adopted in the former act of 1867.